

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EUGENE J. ORRICO, et al.,

Plaintiff(s),

v.

ALLIANT FOODSERVICE, INC., et al.,

Defendant(s).

NO. C02-1250P

ORDER ON

1. MOTION TO COMPEL
DEFENDANTS TO PAY
DEPOSITION COSTS

2. BRIEFING SCHEDULE FOR
MOTIONS RE: BURDEN OF PROOF
and EARNOUT PROVISION

The above-entitled Court, having received and reviewed:

1. Plaintiffs' Motion to Compel Defendants to Pay Deposition Costs Pursuant to April 18, 2003 Order
2. Defendants' Opposition to Plaintiff's Motion to Compel Defendants to Pay Deposition Costs
3. Reply in Support of Plaintiffs' Motion to Compel Defendants to Pay Deposition Costs Pursuant to April 18, 2003 Order

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that the motion is GRANTED as follows: counsel for the parties are ordered to participate in a conference call with attorneys for the deponents. The issues to be determined at the conference will be:

- A. Will counsel for the deponents enter into a stipulation that, if called upon to testify, their clients would refuse to testify on Fifth Amendment grounds; or
- B. Will the deponents in fact agree to testify and, if so, when and where will the depositions take place?

1 If the deponents agree that they will testify, defendants shall pay the costs of the deposition;
2 either the costs of flying one of plaintiffs' counsel to the deponents' location or the costs of airfare and
3 one night's lodging for the deponents to come to Seattle and testify.

4 IT IS FURTHER ORDERED that the motions described below will be simultaneously briefed
5 by both sides according to the following schedule:

6 A. The "burden of proof" issue: Opening briefs (not to exceed 12 pages in length) will be
7 due on October 14, 2005; responsive briefs (not to exceed 6 pages in length) will be
8 due on October 24, 2005.

9 B. The "earnout provision" issue: Opening briefs (not to exceed 24 pages in length) will be
10 due on November 8, 2005; responsive briefs (not to exceed 12 pages in length) will be
11 due on November 18, 2005.

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13 The clerk is directed to provide copies of this order to all counsel of record.

14 Dated: September 12, 2005.



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16 Marsha J. Pechman
U.S. District Judge